

Witness

Date

9-13-05

AmerenCILCO's, AmerenCIPS' and
AmerenIP's Response To

J. Aron & Morgan Stanley Capital Group Inc. Data Request
Docket Nos. 05-0160, 05-0161, and 05-0162
Proposal to Implement a Competitive Procurement Process

Data Request No. Aron/Morgan Stanley 1.1:

Please state whether a supplier will have the option to propose and Ameren will accept as part of a supplier's alternate form of guaranty contemplated in the BGS – FP Supplier Forward Contract, BGS – LFP Supplier Forward Contract and the BGS – LRTP Supplier Forward Contract the designation of "New York" as the state whose laws will govern the interpretation of the alternate form of guaranty. Please state Ameren's reasons for allowing suppliers to choose a state's law other than Illinois law to govern interpretation of the alternate form of guaranty.

1.1(a) If Ameren's response to request 1.1 is in the affirmative, please state whether, as part of Ameren's acceptance of the designation of New York law as part of an alternate form of guaranty, Ameren will impose other restrictions or caveats to this alternate form of guaranty. If so, state those restrictions or caveats.

1.1(b) Provide a current detailed description of the alternative form of guaranty process that Ameren proposes to apply, including without limitation a description of requirements, timing of submission and review of alternate form of guaranty, and the review process.

Response:

Yes. In order to attract significant levels of supplier participation in the auction, the Ameren Companies are willing to permit another state's laws to govern the interpretation of the Guaranty, provided that certain minimum requirements are met. However, the Ameren Companies note that while they will consider another state's laws to govern the interpretation of the Guaranty, any disputes that may arise regarding the Guaranties must still be heard in an Illinois court, which would have jurisdiction in all such matters.

- a) Yes. Any applicable restrictions or caveats are described within Appendix C of the Part 1 Application Form, which is provided in full text below.
- b) A current version of Appendix C of the Part I Application Form is provided in full text below.

Appendix C- Alternate Guaranty Process

As stated in the CPP and BGS Supplier Forward Contracts, Commonwealth Edison ("ComEd") and the Ameren Companies ("Ameren") will allow any bidder to submit an alternate form of guaranty. Such an alternate form of guaranty, if approved according to the process set forth below, is an option to the safe harbor of the standard form of guaranty appended to the CPP and BGS Supplier Forward Contracts. A Supplier can use the standard form of guaranty appended to the CPP and BGS Supplier Forward Contracts and be assured that this standard form of guaranty is acceptable to ComEd and Ameren.

Please note that the standard form of guaranty is a financial guaranty, not a performance guaranty. While alternate forms of financial guaranty may be acceptable, performance guaranties are not acceptable.

The process for submitting an alternate form of guaranty and the ground rules for consideration by ComEd and Ameren of alternate forms of guaranty are as follows:

1. ComEd and Ameren will consider alternate forms of guaranty only if the guaranty is for unlimited liability. The standard guaranty permits a liability limit.
2. ComEd and Ameren have specified a list of additional requirements that any alternate form of guaranty must satisfy. This list is set forth under the heading: "Requirements for the Alternate Guaranty" below.
3. The Auction Manager will receive the alternate form of guaranty, remove any information identifying the proposing party and forward it to ComEd and Ameren. ComEd and Ameren will determine, with the consultation of outside counsel, whether the alternate form of guaranty provides sufficient assurances of payment, taking into account the following considerations: (i) whether the alternate form of guaranty conforms with the specific requirements identified by ComEd and Ameren, (ii) whether the alternate form of guaranty provides substantially similar credit protections to the credit protections provided to ComEd and Ameren by the standard forms of guaranty, (iii) whether the alternate form of guaranty is missing any of the specific protections found in the standard forms of guaranty, and (iv) whether the alternate form of guaranty includes defenses in favor of the guarantor not found in the standard forms of guaranty. ComEd and Ameren may also identify specific changes that would permit the alternate form of guaranty to be acceptable, if such changes are of a limited nature. ComEd and Ameren shall inform the Auction Manager of their decision.
4. The Auction Manager will inform the proposing party of this decision. Proposing parties will be given an opportunity to resubmit the alternate form of guaranty only if it is resubmitted with changes identified by ComEd and Ameren, as accepted.
5. Proposing parties will be responsible for reimbursing ComEd and Ameren for all legal fees associated with outside counsel review with respect to the alternate form of guaranty submitted by the proposing party.

Requirements for the Alternate Guaranty

Set forth below are the specific requirements that must be met in order for any alternate form of guaranty to be acceptable. The alternate form of guaranty must include the following:

1. Guaranty must be an unconditional guaranty of payment of all amounts due by Bidder to ComEd under the CPP-A, CPP-B and/or CPP-H Supplier Forward Contract, as appropriate, and/or to Ameren under the BGS-FP, BGS-LFP and/or BGS-LRTP Supplier Forward Contract, as appropriate. The CPP-A, CPP-B, CPP-H, BGS-FP, BGS-LFP and/or BGS-LRTP Supplier Forward Contract(s), as appropriate, must be expressly identified and the satisfaction of obligations through performance may not be authorized.
2. Guaranty may be terminated upon not less than thirty (30) days advance written notice to ComEd or Ameren, as appropriate, and termination shall not discharge liabilities and obligations of the Guarantor that have been incurred before the effective date of the termination. The termination may only be effective upon receipt by ComEd or Ameren, as appropriate, of alternate means of security or credit support covering amounts due by the Supplier to ComEd under the CPP-A, CPP-B or CPP-H Supplier Forward Contract or to Ameren under the BGS-FP, BGS-LFP or BGS-LRTP Supplier Forward Contract, as appropriate.
3. Guaranty must not be subject to any monetary limit.
4. Guaranty must be accompanied by a certification that this form of guaranty, subject to changes needed to conform with the specific requirements of ComEd and Ameren, has been in general use by the submitting party in its ordinary course of business over the past twelve months.
5. Guaranty must be a guaranty of payment and not of collection.
6. Assignment by the guarantor of its obligations under the guaranty (whether voluntarily or by operation of law) shall not be permitted except with the prior written consent of [ComEd] [Ameren].
7. Subject to requirement number 4 listed above, a party may designate a state other than Illinois whose laws shall govern the interpretation of the guaranty. However, if a party chooses a state other than Illinois, the guaranty must provide that the party consents to jurisdiction in Illinois and agrees to maintain a registered agent for service of process in Illinois, as is required by section 15.14 of the [CPP-A, CPP-B or CPP-H] Supplier Forward Contract and section 15.15 of the [BGS-FP, BGS-LFP or BGS-LRTP] Supplier Forward Contract.
8. The proposing party must provide a signed opinion from a law firm of national (i.e., United States) standing (i) when the alternate form of guaranty is initially delivered to the Auction Manager for review, as to the enforceability of the alternate form of guaranty (assuming due authorization, execution and delivery by the Guarantor of the alternate form of guaranty) and (ii) when the definitive, executed guaranty is delivered, as to the due authorization, execution and delivery by the Guarantor of, and enforceability against the Guarantor of, the alternate form of guaranty. The opinions must not

be weaker than would be industry norm and must contain only those qualifications that would be typical. The opinion shall name ComEd and Ameren and explicitly state that ComEd and Ameren are entitled to rely on the opinion.

9. The alternate form of guaranty must be executed and delivered at the time the BGS or CPP Supplier executes the applicable Supplier Forward Contract(s).

Timetable¹

ComEd and Ameren urge all potential bidders that wish to secure approval of an alternate form of guaranty in advance of the auction to submit such alternate form of guaranty according to the following timetable. This timetable ensures that potential bidders are aware of whether their alternate form of guaranty is accepted before Part 1 Applications are due. The deadline to submit an alternate form of guaranty, with all the required documentation, is noon (CDT) on June 8, 2006.

If needed, the Auction Manager will require that proposing parties of any modifications needed to their alternate form of guaranty by noon (CDT) on June 15, 2006. Proposing parties will be given no more than two business days to then re-submit their alternate form of guaranty.

The Auction Manager will provide the proposing parties with written notice of the decision on or before June 23, 2006.

Timetable for Alternate Guaranty Process for the Initial Auction	
Deadline to submit alternate form of guaranty and all required documentation	Noon (CDT), June 8, 2006
Auction Manager informs proposing parties of any required changes in the alternate guaranty or supporting documents	Noon (CDT), June 15, 2006
Deadline to submit required modifications or revisions to the alternate form of guaranty or other required documents	Noon (CDT), June 19, 2006
Auction Manager informs proposing parties of decision	June 23, 2006

Witness Responsible: Tim Moloney
Title: Managing Supervisor, Credit Risk Management
Phone: 314-613-9139
Date: July 15, 2005

¹ All dates listed in this section and in the Timetable are approximations and placeholders.